

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6799

BILL NUMBER: HB 1995

NOTE PREPARED: Jan 8, 2003

BILL AMENDED:

SUBJECT: Gambling Moratorium.

FIRST AUTHOR: Rep. Turner

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill provides that until January 1, 2008: (1) a form of gambling that is not lawful under an Indiana statute in effect on January 1, 2003, may not become lawful under an Indiana statute; (2) a statute in effect in Indiana on January 1, 2003, that allows a form of gambling may not be amended to expand the scope of gambling allowed by the statute; (3) a tribal-state compact to allow tribal gaming may not be made between the state and an Indian tribe; (4) a meeting permit to conduct pari-mutuel wagering that has not been issued by January 1, 2003, may not be issued; (5) a satellite facility license that has not been issued by January 1, 2003, may not be issued; and (6) the maximum number of riverboat licenses authorized on January 1, 2003, may not be increased.

Effective Date: January 1, 2003 (retroactive).

Explanation of State Expenditures:

Explanation of State Revenues: *Pari-mutuel Pull Tabs:* The provision placing a moratorium on new forms of gambling would prohibit the state from allowing operation of pari-mutuel pull tab machines at Hoosier Park, Indianapolis Downs, and any of the satellite facilities operated by the two race tracks. This moratorium could potentially postpone through January 1, 2008 future revenue growth from taxes and fees imposed in connection with gambling on these electronic gaming devices.

Riverboat Gaming: The provision placing a moratorium on expansion lawful gambling activities could be interpreted to prohibit the state from eliminating the Patoka Lake riverboat license and establishing a new license in Orange County (French Lick and West Baden Springs). The bill also prohibits the state from increasing the maximum number of riverboat licenses currently permitted. Both moratoriums would last until

January 1, 2008. These could potentially postpone future growth in revenue from the Riverboat Admission Tax, the Riverboat Wagering Tax, the Riverboat Owner's Application fee and the Owner's (Initial) License fee. The Application fee is \$50,000 (or greater if the cost of investigating the applicant is greater) and the Owner's (Initial) License fee is \$25,000.

Satellite Facility Licenses: The bill would prohibit the issuance of satellite facility licenses not issued before January 1, 2003. This moratorium would last until January 1, 2008. Under current law, each pari-mutuel permit holder may be granted licenses for four satellite facilities. Currently, Hoosier Park possesses three satellite facility licenses and Indianapolis Downs possesses one satellite facility license. Thus, the bill could postpone issuance of up to four satellite facility licenses. The annual Satellite Facility License Fee is \$1,000. Also, this moratorium could potentially postpone future growth in revenue from the Parimutuel Satellite Facility Tax and the Parimutuel Wagering Tax.

Indian Gaming: The bill prohibits the state from entering into a compact with an Indian tribe before January 1, 2008, to allow tribal gambling. At this time it is unclear as to the impact of these provisions given the fluidity of federal law and regulations relating to Indian gaming.

The Indian Gaming Regulatory Act of 1988 (IGRA) clarified the process for tribes and states to negotiate compacts permitting Class III gambling (house-banked card games, slot machines, other electronic games of chance, pari-mutuel racing, and jai alai) on Indian lands. The IGRA allows Indian tribes to conduct any type of Class III gambling in a state that allows such gambling as long as it conforms to the compact negotiated by the state and the Indian tribe. In many cases, mutually acceptable tribal-state compacts have been successfully negotiated. The IGRA, however, provides that an Indian tribe may sue a state for failing to negotiate or failing to negotiate in good faith. The United States Supreme Court recently ruled in the case of Seminole Tribe of Florida v. Florida (1996) that the United States Congress does not have the power to subject states to lawsuits by Indian tribes for failing to negotiate a compact. The court found that this violated the 11th amendment's guarantee of state sovereign immunity. Therefore, the provision of the IGRA that allows tribes to sue states is unenforceable.

Following the Seminole decision, the U. S. Department of Interior issued new regulations to deal with Indian gaming compact negotiations when tribes and states are unable to voluntarily negotiate Class III gaming compacts. The regulations are designed to apply (1) where states otherwise allow Class III gaming activities, and (2) when states assert immunity from lawsuits to resolve the dispute. The final regulation issued by the Interior Department established a mediation process for these instances which seek state involvement in developing any gaming procedures that might ensue. In addition, the Interior Department has indicated that state law would continue to govern the "scope of gaming" permitted in any procedures proposed by the Department to resolve Indian gaming compact disputes. The position of the Interior Department reportedly is that IGRA does not authorize classes or forms of Indian gaming in any state where they are affirmatively prohibited. Also, IGRA requires that only tribes recognized by the federal government can request negotiations with states on the subject of gambling. And, gambling operated by tribes must be conducted on tribal land (reservation land or land held in trust for the tribe by the Interior Department). The procedures for taking new land into trust, especially for the purposes of tribal gambling, are reportedly complex and time-consuming.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Gaming Commission, Indiana Horse Racing Commission.

Local Agencies Affected:

Information Sources: Indian Gaming, National Governors Association Online, December 21, 2000, <http://www.nga.org/106Congress/IndianGaming.asp>. National Conference of State Legislatures, Tribal-State Relations: Gaming, <http://www.ncsl.org/programs/esnr/gaming.htm>. Joe Gorajec, Indiana Horse Racing Commission, (317) 233- 3121.

Fiscal Analyst: Jim Landers, 317-232-9869